

3:24-mj-00116

STATE OF OREGON)
)
County of Polk)

ss:

AFFIDAVIT OF IRVINE B. JOHNSTONE

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Irvine B. Johnstone, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent with the Federal Bureau of Investigation and have been since September 2022. My current assignment as a member of the Salem Resident Agency is to investigate federal criminal violations including bank robberies, extortions, firearm violations, child abductions, child sexual abuse material, and human trafficking. My training and experience include a 20-week basic training course at the FBI Academy where I was taught to investigate a large variety of federal crimes using a variety of investigative techniques.

2. I submit this affidavit in support of a criminal complaint and arrest warrant charging DAVID JONATHAN LIBEMDAY with Bank Robbery in violation of 18 U.S.C. § 2113(a). As set forth below, I have probable cause to believe that LIBEMDAY committed that crime.

3. This affidavit is intended to show only that there is sufficient probable cause for the requested complaint and arrest warrant and does not set forth all my knowledge about this matter. The facts set forth in this affidavit are based on my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, interviews of witnesses, a review of records related to this investigation, communications with others who have knowledge of the events and circumstances described herein, and information gained through my training and experience.

Applicable Law

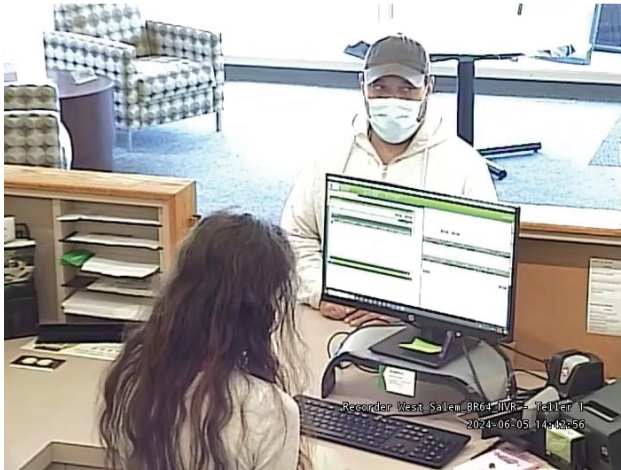
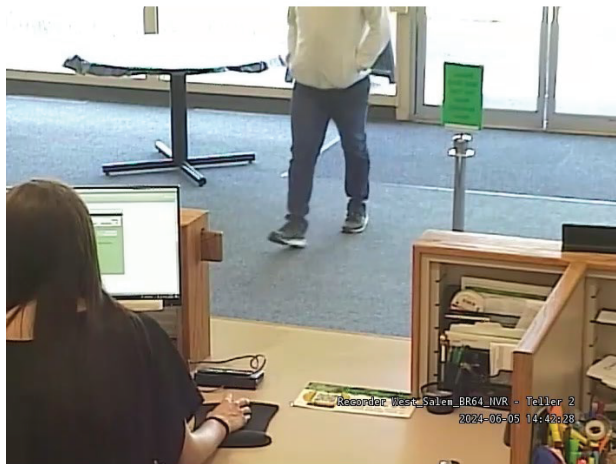
4. 18 U.S.C. § 2113(a) prohibits a person from using force and violence or intimidation to knowingly and unlawfully take or attempt to take currency or any other thing of value from the person or presence of employees of a bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

Statement of Probable Cause

5. On Wednesday, June 5, 2024, at approximately 2:43 p.m., a robbery occurred at the Washington Federal bank branch located at 777 Wallace Road Northwest, Salem, Oregon 97304. The money deposited at this bank is insured by the FDIC.

6. The victim teller told me that after the robber entered the bank, the teller asked what they could do for him. The robber stated, “I would like to make a withdrawal” loud enough for others to hear and approached the victim’s teller counter. The robber slid a note across the counter that said, “Give me \$3,000 NOW.” The robber tapped on the note where the word “NOW” was underlined. The robber stood and waited for the victim teller to count out the money. The victim teller handed the robber \$2,650.00 in United States currency. The robber stuffed the money into his jacket pockets and walked out of the bank, taking the demand note with him.

7. The victim described the robber as a Hispanic male in his mid-30’s, approximately 5’6” tall, with brown eyes, dark hair, a mole or freckle above his right eyebrow, medium build, an American accent, wearing a dark baseball cap, tan zip up jacket, dark colored pants, and a blue surgical mask. Images captured by the bank’s video surveillance cameras follow.

Digital Video SnapshotRecorder: West_Salem_BR64_NVR
Camera Name: Teller 1Capture Size: 704 x 528 pixels
Device Network Name: West_Salem_BR64_NVR
Device Serial Number: NR1833A464
Device Station ID: NVR-165**Digital Video Snapshot**Recorder: West_Salem_BR64_NVR
Camera Name: Teller 2Capture Size: 704 x 528 pixels
Device Network Name: West_Salem_BR64_NVR
Device Serial Number: NR1833A464
Device Station ID: NVR-165

8. A bank employee who witnessed the robbery told me that she was working the drive-through window when the robber entered the bank. The witness described the robber as wearing a white zip up hooded jacket, dark baseball cap, blue surgical mask, blue jeans, and tennis sneakers with dark tops and white soles. The witness described the robber as a Hispanic male, approximately 5'6"-5'7" tall, medium to large build, dark brown hair, facial hair under the surgical mask, and a deep voice with an American accent. The robber asked the witness, "how is your day going?" The witness responded with, "Good, how is your day going?" The robber stated, "Good" and then walked to the victim teller's counter. The witness watched the robber leave the bank with the money, and she heard the victim teller say they had been robbed.

9. I received and reviewed images from the bank's video surveillance system. I saw that the robber appeared to be a Hispanic male in his mid-30s, wearing a dark colored baseball cap, a blue surgical mask, a white or tan zip up jacket, blue pants, and dark-topped shoes with white soles. The robber had dark hair under his baseball cap, and dark facial hair.

10. Shortly after the robbery, Salem Police Department (SPD) Detective Grant Foster, Patrol Officer Adam Kanust, and I were canvassing the neighborhood to the west of the bank toward where the robber walked after the robbery. Detective Foster and I reviewed surveillance footage from the Alibi Bar and Grill located at 590 Taggart Drive, Salem, Oregon 97304, which is approximately one block from the bank. While reviewing the surveillance footage, the owner of the Alibi Bar and Grill told Detective Foster and I that a patron matching the description of the robber had been in the bar earlier. This patron did not pay for their food and drink tab and left before the time of the robbery. The owner later provided us with a printout of the patron's tab (which was opened at 1:19 pm), a photo of which appears below.

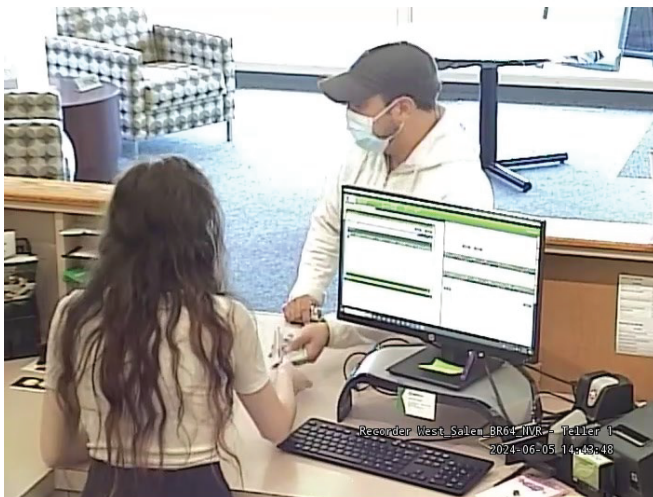


11. This patron returned to the Alibi Bar and Grill while Detective Foster and I were in the building. The bar owner told us the patron was inside the poker room playing a video lottery game. Detective Foster and I walked into that room and saw that the patron at the lottery

machine matched the description of robbery suspect, although he was no longer wearing the white zip-up sweatshirt. SPD Detective Foster stepped outside to call for backup and when he returned, we both contacted the patron.

12. The patron identified himself as “David Libemday,” but claimed he had no identification in his wallet. LIBEMDAY appeared tense, as if he might run or fight. Detective Foster told LIBEMDAY he was being detained. Detective Foster handcuffed LIBEMDAY and then had him sit back down on the bar stool. I compared LIBEMDAY’s appearance with a surveillance image from the robbery and concurred with Detective Foster that LIBEMDAY appeared to match the robber in the surveillance image. Comparison photos appear below.

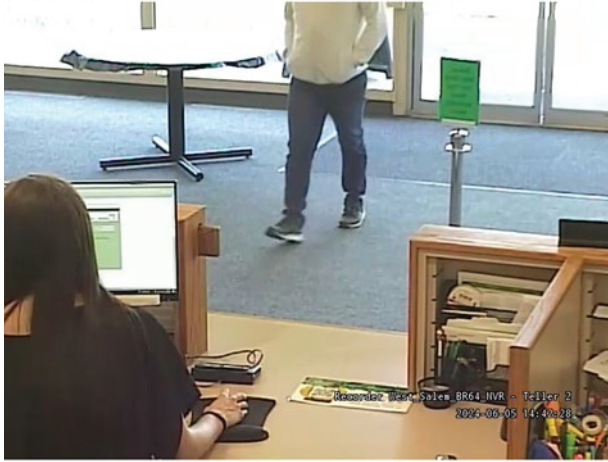
Digital Video Snapshot
Recorder: West_Salem_BR64_NVR
Camera Name: Teller 1



Capture Size: 704 x 528 pixels
Device Network Name: West_Salem_BR64_NVR
Device Serial Number: NR1833A464
Device Station ID: NVR-165



Digital Video Snapshot
Recorder: West_Salem_BR64_NVR
Camera Name: Teller 2



Capture Size: 704 x 528 pixels
Device Network Name: West_Salem_BR64_NVR
Device Serial Number: NR1833A464
Device Station ID: NVR-165



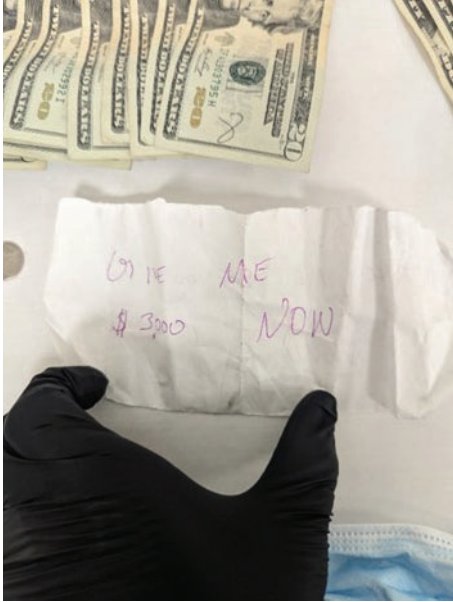
Above: Robbery Images from the bank compared to a photo of LIBEMDAY. Note the blue jean pants, dark baseball cap, dark shoes with white soles, dark hair, and dark facial hair.

13. Detective Foster told LIBEMDAY he would like to interview him in a quieter environment where the interview could be audio and visually recorded. Detective Foster asked LIBEMDAY if he would consent to being transported to the Salem Police Department for an interview. LIBEMDAY said, "Okay, I have no problem with that." Detective Foster asked Officer Kanust to escort LIBEMDAY outside of the Alibi Bar and Grill and to his police car.

14. Officer Kanust conducted a pat-down search of LIBEMDAY before putting him into the police car. There were visible bulges in each of LIBEMDAY's front pant pockets. Officer Kanust asked LIBEMDAY if he could remove the items in LIBEMDAY's pockets to make sure he had nothing dangerous on his person. LIBEMDAY nodded his head up and down in the affirmative. Officer Kanust then checked the contents of LIBEMDAY'S pant pockets and found \$1,723.95 in rolled up United States currency and loose coins, a blue and white surgical

mask, receipts for the Westside Restaurant and the Alibi Bar and Grill lottery machine, and a crumpled-up demand note with one side reading, “GIVE ME \$3,000 NOW” and on the other side, “Give ME \$8,000 NOW!” The date and time on the lottery receipt was June 5, 2024, at 4:54 pm (which is the time LIBEMDAY cashed out). LIBEMDAY also had a wallet containing his identification and various debit cards. Photos of the items found on LIBEMDAY’s person appear below.





15. Officer Kanust transported LIBEMDAY to the Salem Police Department, where Detective Foster and I tried to interview him. I read LIBEMDAY his advice of rights, but he immediately invoked his right to counsel. The interview ended at that point.

16. SPD Officer Kanust took a statement from an employee at Alibi Bar and Grill who witnessed LIBEMDAY enter the bar with a jacket when he ordered his drinks at 1:19 p.m. The employee saw LIBEMDAY leave the bar without paying for his tab, then return later, after the bank robbery, without his jacket.

Conclusion


17. Based on the foregoing, I have probable cause to believe that DAVID JONATHAN LIBEMDAY committed bank robbery in violation of 18 U.S.C. § 2113(a). I therefore request that the Court issue a criminal complaint and arrest warrant charging LIBEMDAY with that offense.

18. Prior to being submitted to the Court, this affidavit, the accompanying complaint, and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) Gary Sussman. AUSA Sussman advised me that in his opinion, the affidavit is legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

(By telephone)

IRVINE B. JOHNSTONE
Special Agent, FBI

Subscribed and sworn to by telephone in accordance with the requirements of Fed. R. Crim. P. 4.1 at 3:40 ~~am~~/pm on June 6, 2024.



HONORABLE JOLIE A. RUSSO
United States Magistrate Judge